

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID MICHAEL LEON,
Petitioner,

No. C 07-05719 CRB

CERTIFICATE OF APPEALABILITY

JAMES A YATES,
Respondent.

Respondent.

The Court denied the petition for habeas corpus and must now decide whether to issue a certificate of appealability (“COA”). A court shall grant a COA “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Upon review the Court issues a COA with respect to the following issues as requested by petitioner:

- 26 1. Whether petitioner's constitutional rights were violated by the exclusion of
27 third party culpability evidence.
28 2. Whether petitioner's constitutional rights were violated by the dismissal of a
 juror during deliberations.

- 1 3. Whether petitioner was deprived of effective assistance of appellate counsel by
2 counsel's failure to raise on direct appeal the issue of a defense expert on
3 coerced statement,

4 **IT IS SO ORDERED.**

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6 Dated: April 30, 2009
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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE